IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. No. 388 of 1993

Date of Decision: 2.8.2006

Smt. Abjeet Kaur and another

...Appellants.

Versus

Jasbir Singh and others

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.

PRESENT: Ms. Jatinder Jit Kaur, Advocate for the appellants.

None for the respondents.

AJAY KUMAR MITTAL, J.

The claimants feeling dissatisfied with the award passed by the Motor Accident Claims Tribunal, Hoshiarpur (for short “the Tribunal”) dated 1.9.1992 have filed this appeal for enhancement.

Briefly narrated the facts are that on 16.12.1990 at about 7.30 PM Sukhwinder Singh deceased along with his wife and mother as well as Bakhshish Singh and Balwinder Singh was coming from Dasuya to Jalandhar in a maruti car bearing registration No. CUF-140 and when they reached near village Khudar, a truck was coming from the opposite side and a tractor trolley loaded with sugarcane was going ahed of the car. It was pleaded that due to head lights of the truck, the tractor trolley driver could not handle his vehicle and the same turned towards his right side, as a result of which car struck against the trolley of the tractor and Sukhwinder

Singh suffered fatal head injury. It was further pleaded that the said accident took place due to rash and negligent driving of Jasbir Singh, driver of tractor trolley.

The claim petition was contested only by respondent No.3-Insurer by pleading that tractor bearing No. PCH-5697 was not insured with it and was not being driven by a person having valid driving licence.

On the pleadings of the parties, following issues were framed by the Tribunal:-

"1. Whether the death of Sukhwinder Singh deceased was caused in the accident due to rash and negligent driving of tractor No. PCH-5697 by Jasbir Singh respondent No.1? OPA

2. To what amount, if any, the claimants are entitled to recover and from whom? OPA

3. Whether the tractor was insured with respondent No.3?OPR

4. Whether the respondent-driver had no valid driving licence at the time of accident? If so, its effect? OPR-3

5. Relief."

The Tribunal under issue No.1 held that the accident had taken place due to sheer rash and negligent driving of the car. Under issues No.2 to 4, the Tribunal observed that the claimants cannot be held entitled to the payment of compensation except the fixed sum of Rs.25,000/- on the principle of 'No Fault Liability' under Section 140 of the Act. Accordingly, the claimants were awarded a sum of Rs.25,000/- as compensation along with interest at the rate of 12% per annum from the date of claim petition till its actual payment to be paid jointly and severally by respondents No.1 to 3.

Learned counsel for the appellants submitted that the findings recorded by the Tribunal under issue No.1 are against the record and the accident had taken place due to rash and negligent driving of tractor No. PCH-5697 being driven by Jasbir Singh and, therefore, the quantum of compensation awarded by the Tribunal under issue No.2 is not just and fair and the appellants should have been awarded the amount as claimed by them in the claim petition.

I have heard learned counsel for the appellants and perused the record.

The Tribunal after considering the evidence of AW1 Smt. Abjeet Kaur, the mother of the deceased and AW2 Balwinder Singh and other evidence Ex.P4 came to the conclusion that the deceased tried to overtake the tractor trolley going ahead of him and the accident took place due to rash and negligent driving of the car. No illegality or perversity could be pointed out in the aforesaid finding recorded by the Tribunal which may call for interference in the appeal.

Accordingly, the compensation awarded by the Tribunal at Rs.25,000/- is just and fair and does not call for any enhancement as argued by the learned counsel for the appellants.

In view of the above, finding no merit in this appeal, the same is hereby dismissed.

August 2, 2006
gbs

(AJAY KUMAR MITTAL)
JUDGE